

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

WILLIAM H. PERKINS, JR.,)	
)	CASE NO. 3:16CV1669
Petitioner,)	
)	JUDGE BENITA Y. PEARSON
v.)	
)	
LYNEAL WAINWRIGHT, ¹ Warden,)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
Respondent.)	[Resolving ECF No. 9]

Pro Se Petitioner William H. Perkins, Jr. filed a Petition for a Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) ([ECF No. 1](#)), alleging 11 grounds for relief which challenge the constitutional sufficiency of his conviction and sentence for aggravated possession of drugs, aggravated trafficking in drugs, aggravated robbery with a firearm specification, receiving stolen property, tampering with evidence, and complicity to tampering with evidence.

On July 11, 2016, the case was referred to Magistrate Judge George J. Limbert for preparation of a report and recommendation pursuant to [28 U.S.C. § 636](#) and [Local Rule 72.2\(b\)\(2\)](#).

After Respondent filed a Motion to Dismiss ([ECF No. 9](#)) and Petitioner filed a Response ([ECF No. 12](#)), the magistrate judge submitted a Report and Recommendation ([ECF No. 14](#)) on

¹ Warden Jason Bunting was the original respondent. He was sued in an official capacity as a public officer. According to the Ohio Department of Rehabilitation and Correction website (<http://www.drc.ohio.gov/mci> (last visited September 18, 2017)), Petitioner is currently serving a sixteen year and three month term of incarceration at the Marion Correctional Institution. Lyneal Wainwright currently is the Warden at that facility. Pursuant to [Fed. R. Civ. P. 25\(d\)](#), Wainwright's name has been automatically substituted as a party.

(3:16CV1669)

August 21, 2017 recommending that the motion be granted and the petition be dismissed as barred by [28 U.S.C. § 2244](#)'s statute of limitations. [ECF No. 14 at PageID #: 980-81](#). As noted in the Report, Petitioner has failed to allege any extraordinary circumstances that would justify equitable tolling of the statute of limitations. [ECF No. 14 at PageID #: 981](#). Moreover, he is not entitled to the actual innocence exception. [ECF No. 14 at PageID #: 982](#).

[Fed. R. Civ. P. 72\(b\)\(2\)](#) provides that objections to a report and recommendation must be filed within 14 days after service. Objections to the Magistrate Judge's Report were, therefore, due on September 5, 2017. Petitioner has not filed any objections.² Any further review by the Court would be a duplicative and inefficient use of the Court's limited resources. [Thomas v. Arn](#), [728 F.2d 813 \(6th Cir. 1984\)](#), [aff'd](#), [474 U.S. 140 \(1985\)](#); [Howard v. Secretary of Health and Human Services](#), [932 F.2d 505 \(6th Cir. 1991\)](#); [United States v. Walters](#), [638 F.2d 947, 949-50 \(6th Cir. 1981\)](#).

² On August 28, 2017, Petitioner filed a Motion for Extension of Time ([ECF No. 15](#)) requesting until November 6, 2017 to file objections to the Report. The Court granted in part Petitioner's Motion ([ECF No. 15](#)). Petitioner was given an additional 10 days – until September 15, 2017 – to file any objections he would like to be considered. Non-document Order dated September 5, 2017. Rather than file objections, on September 11, 2017, Petitioner filed another Motion for Extension of Time ([ECF No. 16](#)) requesting until November 6, 2017 to file objections. The Court denied Petitioner's second Motion ([ECF No. 16](#)). Non-document Order dated September 15, 2017.

While it is true that Respondent was granted two extensions of time in which to respond to the Court's show cause order, *see* Non-document Orders dated September 12, 2016 and November 14, 2016, filing a response to the Petition ([ECF No. 1](#)) required the assembly and review of documents from the Seneca County, Ohio Clerk of Courts prior to preparing and filing the Motion to Dismiss ([ECF No. 9](#)). On the other hand, filing objections required review of the Report and Recommendation ([ECF No. 14](#)), and Petitioner was given 24 days, 10 days more than the Civil Rules require, in which to file his objections.

(3:16CV1669)

Accordingly, the Report and Recommendation ([ECF No. 14](#)) of the magistrate judge is hereby adopted. Respondent's Motion to Dismiss ([ECF No. 9](#)) is granted. William H. Perkins, Jr.'s Petition for a Writ of Habeas Corpus is dismissed.

The Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).

IT IS SO ORDERED.

September 19, 2017
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge